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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,178	10/20/2003	Johnny B. Shoemaker		2710

7590 11/15/2005
JOHNNY B. SHOEMAKER
12617 LONE MOUNTAIN PASS
LEANDER, TX 78641

EXAMINER

SORKIN, DAVID L

ART UNIT PAPER NUMBER

1723

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,178

Applicant(s)

SHOEMAKER, JOHNNY B.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (US 1,871,570). Regarding claim 9, Weber ('570) discloses a sheet comprising a flat pliable sheet (1) and at least one handle (including 6) attached to the outer perimeter of the sheet, wherein a portion (7) of said handle is attached to one side of said sheet and another portion (8) is attached to the other side of said sheet (see Figs. 2 and 5). Regarding claim 10, the portion of the sheet to which the handle is secured is doubled in thickness by folding said sheet over onto itself in the location (12) of said handle (see Figs. 4 and 5). Regarding claim 11, the handles are composite, involving woven fabric strips, waterproof paper patches 9, and adhesive (see page 2, lines 23-49; Figs. 2 and 5). Regarding claim 12, while "The patentability of a product does not depend on its method of production." *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985), the attaching the handle using adhesive is disclosed (see page 2, lines 44 to 45). Regarding claim 14, Weber ('570) discloses a sheet comprising a flat pliable sheet (1) and means for attaching at least one handle (for example 6) to the outer perimeter of the sheet, wherein a portion of said handle is attached to one aide of said sheet and another portion of said handle is attached to the other side of said sheet (see Figs. 1-3).

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Regarding claim 15, Weber ('570) discloses a method of manufacturing a mixing sheet comprising attaching at least one handle (6) to a flat pliable sheet (1), a portion (7) of said handle being attached to one side of said sheet and another portion (8) of said handle being attached to the other side of said sheet (see Fig. 2).

3. Claims 9, 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Durhan (US 3,162,920). Regarding claim 9, Durham ('920) discloses a sheet comprising a flat pliable sheet (10); at least one handle (20, and optionally including 12) attached to the outer perimeter of said sheet, wherein a portion of said handle is attached to one side of the sheet and another portion of said handle is attached to the other side of the sheet (see Fig. 5). Regarding claim 11, said handles are manufacture from rope (12). Regarding claim 12, while "The patentability of a product does not depend on its method of production." *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985), the attaching the handle using adhesive (12) is disclosed. Regarding claim 14, Durham ('920) discloses a mixing sheet comprising a flat pliable sheet (10) and means (30) for attaching at least one handle (for example 20) to the outer perimeter of said sheet, wherein a portion of said handle is attached to one side of said sheet and another portion of said handle is attached to the other side of said sheet (see Fig. 5). Regarding claim 15, Durham ('920) discloses a method for manufacturing a sheet comprising attaching at least one handle (20) to a flat pliable sheet (10), a portion of said handle being attached to one side of said sheet and another portion of said handle being attached to the other side of the sheet (see Fig. 5)

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durham US (3,162,920). The thickness of the sheet is not disclosed, but Durham ('920) explains in col. 2, line 50 that the sheet may be "any suitable size". The decisions *In re Rose* 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems* 220 USPQ 777 (Fed. Cir. 1984) are relied upon for their holdings regarding the obviousness of selecting a size.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber US (1,871,570). The thickness of the sheet is not disclosed. The decisions *In re Rose* 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems* 220 USPQ 777 (Fed. Cir. 1984) are relied upon for their holdings regarding the obviousness of selecting a size.

Response to Arguments

7. Applicant's arguments are moot due to the new grounds of rejection of the new set of claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "David L. Sorkin". The signature is fluid and cursive, with the first name "David" and last name "Sorkin" clearly distinguishable.

David L. Sorkin
Primary Examiner
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DLS